

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

v.

ALFRED W. TRENKLER

No. 92-CR-10369-WES-2

**DEFENDANT'S NOTICE OF REBUTTAL EXPERT OPINION OF
CARDIOLOGIST AND SUPPLEMENTAL AUTHORITIES IN SUPPORT OF
MOTION FOR COMPASSIONATE RELEASE PURSUANT TO
18 U.S.C. § 3582(c)(1)(A)**

**Defendant Alfred Trenkler hereby submits the opinion of cardiologist
Abdulrasheed Alabi, M.D., PhD, in support of his motion for compassionate release.
He also brings several new authorities to the Court's attention.**

1. Declaration of Dr. Alabi

**Mr. Trenkler seeks compassionate release based on, *inter alia*, medical
conditions and vulnerability to COVID-19 infection. He offered the opinion of Dr.
Esperance, a hospitalist who treats COVID-19 patients, who explained that Mr.
Trenkler is at increased risk of severe illness. The government responded by
questioning the severity of Mr. Trenkler's underlying heart disease, based on the
opinion of cardiologist Dr. Goldberg. Given the pivotal nature of the issue and the
complexity of the subject matter, Mr. Trenkler hereby submits the declaration of**

cardiologist Dr. Alabi, of Massachusetts General Hospital, who responds to Dr. Goldberg's assertions and raises several additional considerations. *See* Ex. 1 (Alabi Declaration with CV).

Dr. Alabi discusses Mr. Trenkler's intermittent complete heart block, raising concerns of progressive, chronic heart disease. *Id.* at 2-4. Mr. Trenkler shows clinical and echocardiographic signs of chronic heart failure, a condition related to but independent of the cardiomyopathy. *Id.* at 5-7. Dr. Alabi finds the heart failure is likely significant, ongoing, and with features that may put Mr. Trenkler at heightened risk of sudden cardiac death. *Id.* at 5, 7-8. Dr. Alabi notes that Mr. Trenkler's clinical presentation in December, 2020 and January, 2021 – six months after the pacemaker upgrade – showed a new constellation of symptoms, unrelated to the pacemaker, that would change his NYHA classification. *Id.* at 6-7; *cf.* Golberg Decl., D.E. 758-4, ¶ 12. Dr. Alabi disagrees with the conclusion that Mr. Trenkler's pacemaker upgrade would likely resolve his cardiomyopathy. *See* Ex. 1 at 8-10. First, he finds only a "limited possibility" that Mr. Trenkler's cardiomyopathy is fully explained by the pacemaker. *Id.* at 12. And second, he explains that even in the research discussed by Dr. Goldberg, the best-case scenario of "improvements" due to a pacemaker upgrade are not "curative." *Id.* at 10-13. Finally, Dr. Alabi finds, having managed the care of hundreds of cardiac patients with COVID-19, *id.* at 1, that Mr. Trenkler has numerous risk factors for severe COVID-19 illness:

cardiomyopathy, heart failure, hypertension, a history of smoking, and an overweight-to-obese body mass index. *Id.* at 13-15.¹

2. Supplemental authorities

With regard to COVID-19 vaccination, a recent article published in the New England Journal of Medicine explains that, for a variety of reasons, “[r]eliance on vaccination alone [] seems unlikely to achieve necessary reductions in Covid-19 transmission in incarcerated populations.” *Vaccination plus Decarceration – Stopping COVID-19 in Jails and Prisons*, NEJM (Mar. 3, 2021), attached as Exhibit

2. The article explains that:

[A]s we become aware of an increasing range of SARS-CoV-2 variants, we face greater urgency to disrupt the ideal environment that current carceral conditions provide for viral mutations that could undermine the efficacy of available vaccines and threaten health far beyond American borders.

Vaccination of incarcerated people is important for changing this dynamic, but it is not enough. We believe that it must be coupled with large-scale decarceration to increase the real-world effectiveness of vaccination, disrupt wide-ranging viral transmission chains, and turn off the epidemiologic pump that puts the health of all at risk from mass incarceration.

¹ See, e.g., Sealed Ex. 4 (D.E. 744-4) at 136 (documenting Mr. Trenkler’s height of 162 cm and weight of 78 kg); Sealed Gov. Ex. 3 (D.E. 758-3) at 15 (documenting weight of 78.18 kg). A height of 162cm and weight of 78 kg yields a BMI of 29.7. The CDC classifies a BMI of 30 and above as putting individuals at increased risk of severe illness, while a BMI of 25-30 “might” put someone at increased risk. See <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> .

Ex. 2 at 3. Courts have similarly rejected the argument that vaccinations obviate the need for compassionate release. *See United States v. Maglona*, No. 14-cr-5393-RJB, D.E. 205 (W.D. Wash. Mar. 3, 2021) (granting compassionate release after vaccination); *United States v. Cochran*, No. 01-cr-108-LA, D.E. 466 at 14 (E.D. Wis. Mar. 3, 2021) (granting compassionate release and “declin[ing] to speculate on when defendant may receive a vaccination”).

Finally, Mr. Trenkler attaches the recent decision in *United States v. Perez*, in which the court granted compassionate release to an individual serving three life sentences for murder, explaining, cogently, that the First Step Act does not “forbid granting compassionate release to those sentenced for murder.” No. 02-cr-00007-JBA, D.E. 1474 at 11 (D. Conn. Mar. 4, 2021), attached as Exhibit 3. Mr. Trenkler has, for nearly thirty years, vociferously contested his guilt of this crime. But even adjudged guilty, he shows extraordinary and compelling circumstances warranting release now, after decades of imprisonment.

Respectfully submitted,

ALFRED TRENKLER

by his attorneys,

/s/ Nancy Gertner

Nancy Gertner (BBO # 190140)

Amy Barsky (BBO #601111)

FICK & MARX LLP

24 Federal Street, 4th Floor

Boston, MA 02110

(857) 321-8360

NGERTNER@FICKMARX.COM

ABARSKY@FICKMARX.COM

SCOTT P. LOPEZ (BBO # 549556)

LAWSON & WEITZEN LLP

88 BLACK FALCON AVENUE, SUITE 345

BOSTON, MA 02210

617-439-4990 EXT 3076

SPLOPEZ@LAWSON-WEITZEN.COM

Dated: March 9, 2021

CERTIFICATE OF SERVICE

I, Nancy Gertner, as counsel to Defendant Alfred Trenkler, certify that on March 9, 2021, I caused the foregoing document to be served by ECF on the registered participants as indicated on the Notice of Electronic Filing.

/s/ Nancy Gertner

Nancy Gertner